IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL No 201 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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GUJARAT STATE FERTILIZERS CO. LTD.

Versus

DY. COMMISSIONER OF INCOME TAX

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Appearance:

1. TAX APPEAL No. 201 of 2000

MR JP SHAH for Petitioner No. 1

MR MANISH R BHATT for Respondent No. 1

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CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 24/10/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 In this appeal, after hearing the learned Advocates, as suggested by the learned Advocate for the appellant, the following substantial question of law had been framed by this Court at the time of admission.

"Whether, increase in actual cost of plant and machinery because of the appreciation of foreign currency against the rupee is eligible for investment allowance ?"

2 We have heard Mr.J.P.Shah for the appellant and Mr.B.B.Nayak for the respondent.The learned Advocates have submitted before this Court that in ITR No.178/85, the Full Bench of this High Court has rendered its opinion and, on the basis of the said opinion, the appeal deserves to be allowed.

3 In view of the aforesaid undisputable legal position, we quash and set aside the impugned order of the Tribunal so far as it pertains to the issue referred to hereinabove by deciding the aforestated issue in favour of the assessee.

The appeal is thus allowed with no order as to costs. The Assessing Officer is directed to give effect to the law laid down in the aforestated opinion of the Full Bench.

Sd/- Sd/-

(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhatt